

EXHIBIT 3

BEFORE THE HONORABLE WILLIAM H. ALSUP

WAYMO, LLC

Plaintiff,

VS.

UBER TECHNOLOGIES, LLC., OTTO)
TRUCKING, LLC, and OTTOMOTTO, LLC,)

Defendants.

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) No. C 17-00939 WHA
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)
)
) San Francisco, California
) Wednesday
) May 3, 2017
) 9:00 a.m.

TRANSCRIPT OF PROCEEDINGS

APPEARANCES :

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(APPEARANCES CONTINUED ON FOLLOWING PAGE)

Reported By: *Debra L. Pas, CSR 11916, CRR, RMR, RPR*

Official Reporter - US District Court

Computerized Transcription By Eclipse

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Official Reporter - U.S. District Court - San Francisco
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1 Chatterjee on behalf of Otto Trucking, LLC.

2 **THE COURT:** All right. Thank you.

3 **MR. COOPER:** Good morning, John Cooper, Special
4 Master.

5 **THE COURT:** Thank you.

6 All right. So we are here for the public portion of the
7 motion. Those of you who just joined us, we have been going at
8 it for about an hour and a half concerning alleged trade
9 secrets. So that part was under seal. Now this is the public
10 portion.

11 And I want to ask my clerk if we can get the air
12 conditioner cranked up, because we've got so many people in
13 here, it's hard to breathe. Can we get the air conditioner
14 going?

15 **THE CLERK:** I'll call.

16 **THE COURT:** All right. Anyway, forgive us for the
17 stuffiness of the room.

18 So this is the Waymo Motion for Preliminary Injunction.
19 Please go ahead.

20 **MR. VERHOEVEN:** Thank you, your Honor. I have some
21 slides I would like to hand up, if I may.

22 **THE COURT:** All right. My clerk is dealing with the
23 air conditioner.

24 (Document tendered to the Court)

25 **MR. VERHOEVEN:** Obviously, I'm not going to go

1 through all of those slides, your Honor, but we're
2 over-inclusive just in case we need to show something.

3 This is an extraordinary case of misappropriation of
4 intellectual property. Mr. Levandowski downloaded over 14,000
5 proprietary files while he was at Waymo for use at a
6 competitor.

7 While at Waymo, he's still working there, he went out of
8 his way to search Google's internet for instructions on how to
9 access Waymo's confidential .svn file repository. He then
10 installed specialized software, TortoiseSVN, to access that
11 repository. He downloaded 9.7 gigabytes of Waymo's proprietary
12 files onto his laptop, his Waymo laptop.

13 He then attached an external drive to the laptop for eight
14 hours and, we allege, transferred those files to the external
15 drive. He then tried to cover his tracks, your Honor, by
16 reformatting his laptop and trying to wipe clean the evidence
17 of what he had done.

18 The statements I just made, your Honor, are undisputed.
19 Mr. Levandowski has taken the Fifth Amendment. He refuses to
20 testify on the ground that he may incriminate himself.

21 Elsewhere we've discovered, when asked about it, he has
22 not denied that he did this.

23 Importantly, the defendants in this case, Uber, which I'll
24 call collectively Uber, your Honor, do not dispute that he did
25 it. They do not contest that he did it.

1 It is now clear, your Honor, that at the time of the
2 download, Uber and Mr. Levandowski were planning to build a
3 replica LiDAR system for Uber. It turns out, through
4 discovery, we've learned that Uber and Levandowski, together,
5 created a cover-up scheme for what they were doing. They
6 concocted a story for public consumption.

7 The story was that Mr. Levandowski left Waymo because he
8 wanted to found his own company. And only after months later,
9 Uber decided to buy that company. While that is troubling
10 enough, the facts are even more disturbing.

11 In fact, the evidence shows that while Mr. Levandowski was
12 still working at Waymo, Uber and Mr. Levandowski were planning
13 to have Levandowski build a custom LiDAR for Uber based on his
14 experience with Waymo's efforts.

15 THE COURT: Wait a minute now. Tell me that last
16 sentence one more time.

17 MR. VERHOEVEN: I'll show you the document, your
18 Honor.

19 THE COURT: Okay.

20 MR. VERHOEVEN: If we could go to slide 11. Oh, I'm
21 sorry. It's sealed, your Honor.

22 But I have received permission to publish it, correct?

23 MR. GONZALEZ: Yes.

24 MR. VERHOEVEN: Yes.

25 So could we put it up, please?

1 developed such a product with Levandowski. It was called the
2 PBR. That's all I'm saying.

3 I'm not trying to say this document shows
4 misappropriation. I'm saying it shows their deal was while
5 he's at Waymo, he's negotiating -- or Uber is negotiating with
6 Mr. Levandowski saying: We want you to build a product just
7 like Waymo developed, and we want it on a certain timeline, and
8 we want certain deliverables, and you don't get paid unless you
9 deliver them.

10 **THE COURT:** All right. But the specifications of
11 what it's going to do, these technical specifications, could
12 turn out to be different from what the Waymo PBR did, right?

13 **MR. VERHOEVEN:** I'm not making assertions that
14 there's an identity of the specifications.

15 All I'm saying, your Honor, is this is evidence that they
16 had a plan, and this is taking place during the download of the
17 14,000 -- contemporaneous with the download of the 14,000
18 proprietary Waymo files. And this relates directly to a
19 product that Waymo had developed for long -- for a long-range
20 LiDAR sensor.

21 If you go to the next slide, which is sealed -- and I
22 don't think they will -- for the same reasons, I don't think
23 they will --

24 **THE COURT:** Just let me ask you something. Let's say
25 that Waymo goes out and hires somebody from a competing

1 self-driving car company. There are other companies out there.
2 Just make one up.

3 Your proposition seems to be that they are -- that that's
4 bad because they're going to wind up using information that
5 they were working on at the other company. And I bet you Waymo
6 itself has hired people from other companies.

7 **MR. VERHOEVEN:** That's not what I'm saying, your
8 Honor.

9 I'm saying this is one piece in the puzzle that shows
10 intent, along with the download of the 14,000 documents, the
11 secret negotiation while he's an employee of Waymo, the plan
12 ahead of time that they were going to -- that he was going to
13 create a company and build, ostensibly, his own company and
14 build a -- these, according to these detailed specifications,
15 LiDAR systems that are the same products as Waymo had,
16 according to specific timelines and specific --

17 **THE COURT:** Not the same products. The same generic
18 type products, but that's all this shows so far.

19 **MR. VERHOEVEN:** And tied to specific revenue
20 payments, all while he's employed at Waymo.

21 **THE COURT:** All right. Does it say in that document
22 that he's supposed to download documents?

23 **MR. VERHOEVEN:** No, it does not.

24 **THE COURT:** All right. Now, I am not saying you've
25 got to have this kind of proof. But I am listening very

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from
the record of proceedings in the above-entitled matter.

Debra L. Pas

Debra L. Pas, CSR 11916, CRR, RMR, RPR

Thursday, May 4, 2017